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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,972

02/19/2004

Glen Johnson

14298.1USU1

1050

23552

7590

12/12/2006

MERCHANT & GOULD PC

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MINNEAPOLIS, MN 55402-0903

EXAMINER

BATSON, VICTOR D

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/781,972	Applicant(s) JOHNSON, GLEN	
	Examiner Victor Batson	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11, 15-25 and 29-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 29-39 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8 and 15-25 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

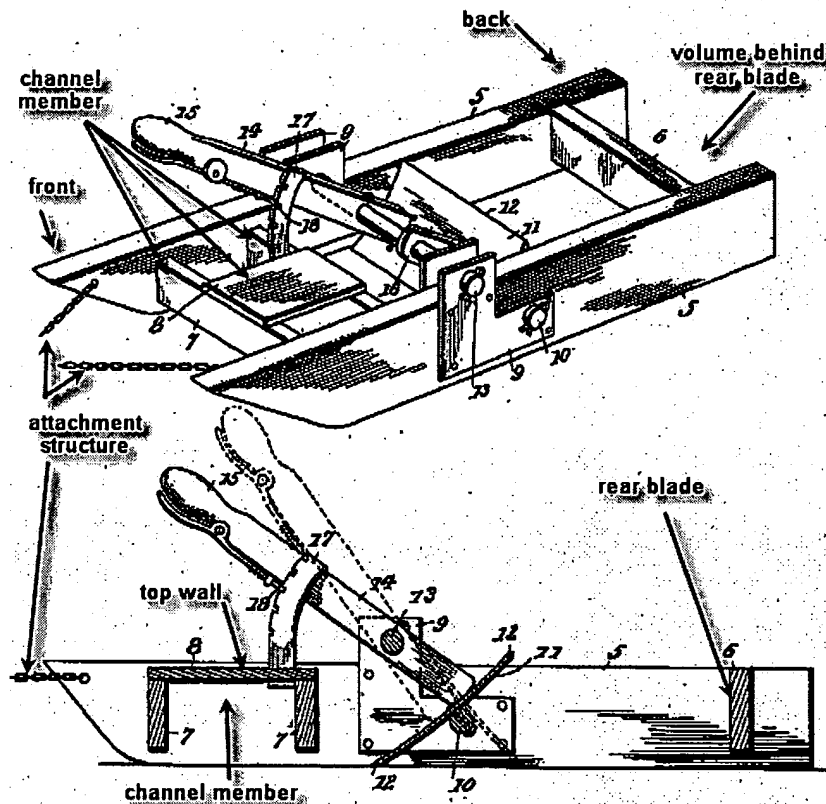
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,3,6 are rejected under 35 U.S.C. 102(b) as being anticipated by Corbitt (1,487,723).

Corbitt discloses a grading implement comprising a main body including right and left ends, a first channel member (considered the combination of members 7 & 8) and a rear blade 6 positioned at the back of the main body. The examiner notes that members 7 are considered the first and second spaced-apart flanges, which extend between the left and right ends, and although the top wall 8 does not extend along the entire length of the channel member, it does extend along part of the length and is therefore considered to meet applicant's claim.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,8,19,20,21,22,23,24,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corbitt (1,487,723).

Corbitt discloses an implement as described previously, but lacks disclosing the implement having dimensions that meet the claimed dimensions.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to build the implement of Corbitt with dimensions that fall within the claimed range of dimensions since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (see MPEP 2144.05).

Claims 15, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corbitt (1,487,723) in view of Hermonson (6,283,225).

Corbitt discloses an implement as described previously, but lacks using hollow extensions sized to receive tines.

Hermonson teaches that it is known in the art for a grading blade to include hollow extensions sized to receive tines to allow the blade to be used with a vehicle such as a skid steer loader (figure 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the grading implement of Corbitt with hollow extensions so that the grading implement could be used with various vehicles such as a skid steer vehicle as taught by Hermonson.

Concerning connecting the adapter to the implement by removable pins, the examiner takes Official Notice that removable pins such as cotter pins are a known connection means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use removable pins such as cotter pins to connect the adapter to the implement since the examiner takes Official Notice of the equivalence of

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removable pins for their use as a connection means and the selection of any known equivalents to connect structures together would be within the level of ordinary skill in the art. Furthermore, since applicant has not challenged the Official Notice of the equivalence of cotter pins as a connection means, this has been taken as an agreement of the Official Notice and equivalence.

Allowable Subject Matter

Claims 4,5,11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17, 29-39 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-8,11,15,16,18-25 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 8, 2006



Victor Batson
Primary Examiner
Art Unit 3671